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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 4113 OF 2007
IN
APPEAL NO. 555 OF 2005
IN
SUIT NO. 2812 OF 2001

Jayesh H. Pandya ... Appellant

Versus

Sukanya Holding Pvt. Ltd.
and Ors. ... Respondents

And

Court Receiver,
High Court, Mumbai. ... Respondent

Mr. J.P. Sen with Ms. Jacinta D'Silva for the Appellant.

Ms. Mamta Sadh with Ms. C.J. Kambli for R. No. 19.

Mr. C.M. Lokesh for R. No. 10.

CORAM: F.I. REBELLO &
R.S.MOHITE, JJ.
DATED: DECEMBER 13, 2007

P.C.

. By the present motion, Respondent No. 1 has prayed that they may be permitted to give flat No. 601 on leave and licence basis without payment of royalty and security deposit to Court Receiver as per Order dated 19.9.2006 in Notice of Motion No. 1900 of 2005. This court while passing the order, dealt with two situations. Firstly the flats which

were in possession were covered by Direction No. 2 of Para No. 3 and the flats which are not occupied were covered by Direction No. 3 of Para No. 3.

. It is sought to be contended on behalf of the Appellant herein that in so far as the present flat is concerned, it should be placed on the same footing as Para 3. In our opinion, such argument cannot be countenanced. Direction No. 2 of Para 3 which directs that the permission of the court be taken, cannot be read to mean that this court in such a situation as the present will direct valuation of the flat in terms of direction No. 3 and thereafter only permit the induction. The order clearly dealt with flats which were in possession and which were non occupied. The order is self operative and there is no ambiguity whatsoever. In the present case, the issue is covered by Direction No. 2 of Para 3 as the flat was in possession and what is required is only that the permission of the court has to be taken.

. Considering that the objection as raised on behalf of the appellant is rejected. The motion made absolute in terms of Prayer Clause (a) subject to the licensee signing the agency agreement. Motion disposed of accordingly.

(R.S.MOHITE, J.) **(F.I.REBELLO, J.)**